IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 27TH NOVEMBER 2006 / 6TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 4144 of 2006()

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CRA.238/2005 of ADDL. SESSIONS COURT (ADHOC)-II, KALPETTA
ST.876/2005 of JUDL.MAGISTRATE OF FIRST CLASS I, SULTHANBATHERY

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REVN. PETITIONER: APPELLANT/ACCUSED:

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K.T.ANTONY, S/O. THOMAS,
KARAMOOTTIL HOUSE, CHEERAMKUNNU,
SULTHAN BATHERY.

BY ADV. SRI.V.RAJENDRAN (PERUMBAVOOR)
SRI.GEORGE VARGHESE KIZHAKKAMBALAM

RESPONDENTS: RESPONDENTS/COMPLAINANT

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1. SAJITHA, W/O. USMAN,
CHOZHAKKADAN HOUSE, MARY KUNNU,
AMBALAVAYAL VILLAGE, SULTHAN BATHERY.

2. STATE OF KERALA, REPRESENTED BY
DIRECTOR GENERAL OF PROSECUTION,
HIGH COURT OF KERALA, ERNAKULAM.

BY GOVERNMENT PLEADER SRI.KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 27/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**K.T.SANKARAN, J**

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Crl. R.P. No. 4144 of 2006

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Dated this the 27th day of November, 2006

**ORDER**

In the manner in which I propose to dispose of the revision, it is not necessary to issue notice to the first respondent. Public Prosecutor takes notice for the second respondent.

2. The petitioner was found guilty for the offence under Section 138 of the Negotiable Instruments Act and he was sentenced to undergo simple imprisonment for a period two months. The petitioner was further directed to pay a sum of Rs.10,000/- as compensation under Section 357(3) of the Code of Criminal procedure and in default of payment of compensation, to undergo simple imprisonment for one month. On appeal, by the accused, the appellate court confirmed the conviction and sentence and dismissed the appeal.

3. The learned counsel for the petitioner submitted that the petitioner is a coolie and that he is prepared to pay the compensation amount within a reasonable time. It is submitted that the substantive sentence of two months is excessive. Taking into account the facts and circumstances of the case, I am of the

view that the sentence can be reduced to imprisonment till the rising of the court and that a reasonable time can be granted for payment of compensation.

4. In the result, this Crl.R.P. is allowed in part. The conviction is confirmed. However, the sentence is reduced to imprisonment till the rising of the court. The direction to pay the compensation is also confirmed. However, the petitioner is granted six weeks time from today to pay the amount of compensation. The petitioner shall appear before the trial court on 18th December, 2006 to undergo imprisonment till the rising of the court and shall continue to appear as may be directed by the trial court till the compensation amount is paid. The default sentence shall be kept in abeyance for a period of six weeks.

**K.T.SANKARAN,**
**JUDGE**

csl